



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
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*Lt. Governor*

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September 8, 2017

Via Electronic Mail [Debra.Crutchfield@ichrom.com] and USPS Regular Mail

Debra Crutchfield, CEO  
iChrom Solutions  
542 Cross Keys Road, Suite #3-376  
Sicklerville, NJ 08081-4367

Re: I/M/O RFP #17DPP00064 iChrom Solutions  
Protest of Notice of Proposal Rejection  
T0115 Scientific Equipment Accessories and Supplies

Dear Ms. Crutchfield:

This letter is in response to your email of August 29, 2017, on behalf of iChrom Solutions (hereinafter "iChrom") to the Division of Purchase and Property's (hereinafter "Division") Hearing Unit. In that correspondence, iChrom protests the rejection of its Quote (Quote # 00001110) as a late submission. iChrom alleges that it "experienced significant delays which resulted in [its] inability to submit all necessary [RFP] submission components according to the established 2:00 PM deadline." In light of the alleged delays experienced, iChrom requests that its Quote be accepted and considered in the evaluation of this procurement.

In consideration of iChrom's protest, I have reviewed the record of this procurement, including the Bid Solicitation {Request for Proposal} #17DPP00064 - T0115 Scientific Equipment Accessories Supplies and Maintenance Statewide (hereinafter "RFP"), iChrom's documents uploaded to *NJSTART*, the relevant statutes, regulations, and case law. This review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed Final Agency Decision on the merits of the protest. I set forth herein the Division's Final Agency Decision.

By way of background, on March 22, 2017, the Division's Procurement Bureau (hereinafter "Bureau") issued the RFP on behalf of State Using Agencies and Cooperative Purchasing Program Partners, to solicit Quotes {Proposals} (hereinafter "Proposals") for educational/instructional and professional/laboratory grade scientific equipment, accessories, supplies, chemicals and reagents, instrument rental and maintenance. RFP § 1.1 *Purpose and Intent*. It is the State's intent to award Statewide Blanket P.O.s {Contracts} (hereinafter "Contracts") for each specific brand bid (one award per brand) for price lines one (1) through four (4), to those responsible Vendors {Bidders} (hereinafter "Bidders"), whose Proposals, conforming to the RFP, are most advantageous to the State, price, and other factors considered. Price lines five (5) and six (6) will be awarded to all Bidders awarded contracts for prices lines one (1) through four (4). RFP § 7.2 *Final Blanket P.O. {Contract} Award*.

On July 6, 2017, the Bureau issued Bid Amendment {Addendum} #6 responding to the questions posed by potential Bidders. On August 15, 2017, the Bureau issued Bid Amendment {Addendum} #9 extending the Proposal opening date to August 25, 2017, 2:00 pm eastern time.

On August 25, 2017, the Proposal Review Unit opened 55 Proposals received by the submission deadline of 2:00 pm eastern time. A review of the Proposals submitted by the submission deadline reveals that iChrom did not submit its Proposal by the 2:00 p.m. deadline as required. After the Proposal submission deadline, iChrom wrote to the procurement supervisor stating:

I'm not sure what has happened but we were trying to submit our bid before the 2:00 deadline but were unable to get through. All of our files are there with time stamps to see that we were trying to submit. What can we do at this point to get our bid included?

[iChrom email dated August 25, 2017.]

The Procurement Supervisor advised iChrom to submit a letter to the Division's Hearing Unit. Accordingly, on August 29, 2017, iChrom submitted an email to the Division's Hearing Unit requesting that its Quote be accepted and evaluated for a Contract award.

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Proposal to be accepted. The Division's governing regulations provide in relevant part: "[i]n order to be eligible for consideration for award of contract, the bidder's proposal shall ... [b]e submitted on or before the due date and time and at the place specified in the RFP." N.J.A.C. 17:12-2.2(a), *emphasis added*. If the requirements of N.J.A.C. 17:12-2.2 are not met, a Proposal must be rejected. These regulations are stringently enforced to maintain the equal footing of all Bidders and to ensure the integrity of the State's bidding process.

The RFP advised all potential Bidders of the requirements for proper and timely Proposal submission noting:

### **1.3.2 SUBMISSION OF QUOTES {PROPOSALS}**

In order to be considered for award, the Quote {Proposal} must be received by the Procurement Bureau of the Division at the appropriate location by the required time. Vendors {Bidders} shall submit a quote {proposal} either electronically through **NJSTART** or via hard copy.

Hard copy quote {proposal} must be submitted to the physical location noted below:

PROPOSAL RECEIVING ROOM – 9TH FLOOR  
DIVISION OF PURCHASE AND PROPERTY  
DEPARTMENT OF THE TREASURY  
33 WEST STATE STREET, P.O. BOX 230  
TRENTON, NJ 08625-0230

Directions to the Division are available on the web at  
<http://www.state.nj.us/treasury/purchase/directions.shtml>.

**QUOTES {PROPOSALS} NOT RECEIVED PRIOR TO THE QUOTE {PROPOSAL} OPENING DEADLINE SHALL BE REJECTED. THE DATE AND TIME OF THE QUOTE {PROPOSAL} OPENING ARE INDICATED ON THE BID SOLICITATION {RFP} COVER SHEET AND IN THE "SUMMARY" PAGE OF THE BID SOLICITATION IN [NJSTART](#).**

Note: A Vendor {Bidder} using U.S. Postal Service regular or express mail services should allow additional time since the U.S. Postal Service does not deliver directly to the Procurement Bureau. A Vendor {Bidder} should make every effort to submit its quote {proposal} well ahead of the quote {proposal} submission deadline to mitigate unforeseen delays or issues. **The Vendor {Bidder} is solely responsible for the timely submission of its quote {proposal} in response to this Bid Solicitation {RFP}.**

...

[*Second emphasis added.*]

Further the RFP advised Bidders to consult the Division's Quick Reference Guides and supporting videos in preparing Proposals; specifically,

### 1.3.3 [NJSTART](#)

The Division is pleased to announce its new eProcurement solution "[NJSTART](#)."

#### **Vendor {Bidder} Support:**

Vendors {Bidders} are strongly encouraged to visit the [NJSTART Vendor Support Page](#), which contains Quick Reference Guides (QRGs), supporting videos, a glossary of [NJSTART](#) terms, and helpdesk contact information.

The Vendor {Bidder} should utilize the QRGs before attempting to submit its Quote {Proposal} using the [NJSTART](#) process. It is the Vendor's {Bidder's} responsibility to ensure that the [NJSTART](#) Quote {Proposal} and attachments have been properly submitted.

With the above principals in mind, Bidders are cautioned to allow adequate time to ensure that the Proposal is properly submitted.

A review of the record of this procurement revealed that iChrom did attempt to create a Proposal in response to the RFP and was in the process of doing so on August 25, 2017, the Proposal submission due date.

Quote: 0001110 - iChrom Solutions										
General	Items	Questions	Administrations	Terms & Conditions	Attachments(12)	Evaluations	Preferences	Revisions	Summary	Back to Bid
<b>Header Information</b>										
Quote #:	0001110	Bid #:	17DPP00064	Status:	In Progress					
Organization:	Division of Purchase and Property	Delivery Days:		Discount Percent:	0.0					
Description:	T2113 Seismic Equipment Accessories Supplies and Maintenance Services	Alternate Bid:	No	Shipping Terms:	F O B Destination					
Bid Flag:	Yes	Ship Via Terms:		Payment Term:	1% 10 days Net 30					
Freight Terms:		Info Contact:		Quote Total:	\$3.00					
Promised Date:		User last Updated:	John Calkins	User Created:	John Calkins					
Comment:		Date Last Updated:	08/25/2017 01:04 PM							

However, at the close of the Proposal submission deadline, 2:00:59 pm, iChrom had not fully uploaded all of its files to the Division's **NJSTART** eProcurement website, and unfortunately, iChrom did not submit its Proposal. Once the deadline for Proposal submission passes (2:00:59 pm) the system locks and does not allow any additional submissions.

From the Division's **NJSTART** eProcurement website, the Hearing Unit could ascertain that at the Proposal submission deadline iChrom was still uploading its Proposal documents. Specifically, a document entitled "membraPure Price List 2017" did not completely upload until 2:02:41 pm; after Proposal submission deadline.

Attachment File Detail: membraPure Price List 2017.xlsx			
Name*	membraPure Price List 2017.xlsx		
Description	membraPure Price List 2017.xlsx		
File	membraPure Price List 2017.xlsx		
Location	volumes\0001110\profile		
Size	19 937 bytes		
Uploaded	08/25/2017 02:02:41 PM		
	Last Modified On Disk		08/25/2017 02:02:41 PM
	Uploaded By		John Calkins

While iChrom alleges that there were delays and issues with the **NJSTART** eProcurement website that prevented it from uploading its attachments, the Bureau received 55 Proposals submitted in a timely fashion.<sup>1</sup>

Further, a review of the documents that were uploaded by iChrom to the Division's **NJSTART** eProcurement website, reveals that iChrom did not upload the Price Sheet/Schedule as required by RFP § 4.4.5 *Price Sheet/Schedule* which states in pertinent part "[t]he Vendor {Bidder} must submit its pricing using the State-supplied Price Sheet accompanying this Bid Solicitation {RFP} and located on the "Attachments" Tab."

<sup>1</sup> Forty-nine (49) Proposals were submitted electronically through the Division's **NJSTART** eProcurement website and six (6) Proposals were submitted hardcopy to the Division prior to the close of the Proposal submission deadline. Eight (8) of the Bidders who submitted Proposals electronically through the Division's **NJSTART** eProcurement website, completed the Proposal uploads on August 25, 2017, prior to the Proposal submission deadline.

Item	Name	Description	Confidential	Issued By	Issued Date
	<a href="#">Bidders Data Sheet-1.pdf</a>	Bidders Data Sheet	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Competition Purchasing Form-1.pdf</a>	Competition Purchasing Form	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Disclosure of Investment Activities in New Jersey-1.pdf</a>	Disclosure of Investment Activities in New Jersey	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">ECON-Chrom Certification Letter-1.pdf</a>	ECON-Chrom Certification Letter	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Inventory-Pure-Chrom Certification Letter-1.pdf</a>	Inventory-Pure-Chrom Certification Letter	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Offer and Acceptance Form-1.pdf</a>	Offer and Acceptance Form	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Stock-Chrom Certification Letter-1.pdf</a>	Stock-Chrom Certification Letter	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Subcontractor Utilization Plan Form-1.pdf</a>	Subcontractor Utilization Plan Form	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Technical Competency-Chrom Certification Letter-1.pdf</a>	Technical Competency-Chrom Certification Letter	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">NJ Disclosure of Investment Activities-1.pdf</a>	NJ Disclosure of Investment Activities	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Order Distribution Form-1.pdf</a>	Order Distribution Form	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">NJ State Bank Form 2017-1.pdf</a>	NJ State Bank Form 2017	<input type="checkbox"/>	John Chubbuck	06/22/17
	<a href="#">Inventory-Pure Price List 2017.xlsx</a>	Inventory-Pure Price List 2017	<input type="checkbox"/>	John Chubbuck	06/22/17

It is on this Price Sheet/Schedule that Bidders submit to the State the “firm, fixed percentage discount or markup off the manufacturer’s latest price list.” RFP § 4.4.5.2 *Price Sheet/Schedule Attachment Instructions*. Having failed to attach this form, even if the Proposal had been submitted prior to the Proposal submission deadline, iChrom’s proposal would have been deemed non-responsive. The Bureau would be unable to allow iChrom to submit the Price Sheet/Schedule after the Proposal submission deadline as doing so would put iChrom in a position of advantage over other Bidders, and would unlevel the Bidder’s playing field, as the State received responsive Proposals in which all necessary information, documents and pricing was provided in the Proposal as required.

Despite iChrom’s apparent intent to submit a Proposal for the subject solicitation, under the provisions set forth above, the statutory procurement laws, and the regulations of the State of New Jersey, the Division cannot accept iChrom’s Proposal as timely submitted. Such acceptance would un-level the Bidders playing field. In light of the findings set forth above, I must deny your request for eligibility to participate in the competition for the subject contract. This is my final agency decision.

This is an unfortunate situation for the State, as we encourage competition and appreciate your expertise in the field. In the future, I encourage earlier initiation of submissions to ensure timely receipt of Proposals and to allow for any issues which may arise during the electronic Proposal submission process. Thank you for registering your company with *NJSTART* at [www.njstart.gov](http://www.njstart.gov), the State of New Jersey’s new eProcurement system. I look forward to your company’s continuing interest in doing business with the State of New Jersey.

Sincerely,



Maurice A. Griffin  
 Acting Director

MAG: RUD

- c: J. Kerchner
- K. Thomas
- C. Murphy
- A. Nelson
- D. Rodriguez